

1 VAC 55-30-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Actively at work" means that an employee cannot be both disabled and away from work on the effective date of the long-term care coverage.

"Administrative services arrangement" means an arrangement whereby a third-party provider agrees to administer all or part of the long-term care program.

"Department" means the Department of Human Resource Management.

"Director" means the Director of the Department of Human Resource Management.

"Effective date of coverage" means the date on which the long-term care coverage begins.

"Employee" means a person employed by an employer participating in the long-term care program or, where demanded by the context of this chapter, a retired employee of such an employer.

"Employer" means the entity with which a person maintains a common law employee-employer relationship. The term "employer" is inclusive of each state agency and of a local employer.

"Evidence of good health" means a statement or proof of a person's physical condition or other factors that could affect his acceptance for the long-term care program.

"Insured arrangement" means an accident or health plan underwritten by an insurance company wherein the department's only obligation as it may relate to claims is the payment of insurance company premiums.

"Local employees" or "employees of local governments" means all officers and employees of the governing body of any county, city, or town, and the directing or governing body of any political entity, subdivision, branch, or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from § 15.2-1300 or § 15.2-1303 of the Code of Virginia or similar statutes, provided that the officers and employees of a social services department, welfare board, mental health and mental retardation services board, or library board of a county, city, or town shall be deemed to be the employees of local government.

"Local employer" means any county, city, or town, school board, and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any commission or public authority or body corporate

created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from § 15.2-1300 or § 15.2-1303 of the Code of Virginia, or similar statutes.

"Local officer" means the treasurer, registrar, commissioner of revenue, attorney for the Commonwealth, clerk of a circuit court, sheriff, or constable of any county or city or deputies or employees of any of the preceding local officers.

"Local retiree" means a former local employee who has met the terms and conditions for early, normal or late retirement from a local employer.

"Long-term care program" or "program" means, individually or collectively, the plan or plans the department may establish pursuant to §§ 2.2-1207 and 2.2-1208 of the Code of Virginia.

"Part-time local employee," as defined by each local employer, means an employee working less than full time who a local employer has determined to be eligible to participate in the program. The conditions of participation for these employees shall be decided by the local employer.

"Participant" means any person actively enrolled and covered by the long-term care program.

"Participating local employer" means a local employer who offers the long-term care program, sponsored by the Department of Human Resource Management, to their employees and retirees.

"Plan administrator" means the company responsible for administering the long-term care program including such services as accounting, issuance of certificates and settlement of claims.

"Rating" the process that determines how much a particular package of benefits will cost and what will be charged to cover those expected costs for a specific group of people.

"Self-insured arrangement" means a facility through which the plan sponsor agrees to assume the risk associated with the type of benefit provided without using an insurance company.

"Spouse" means the legally married husband or wife of an employee or retiree as recognized by the Commonwealth of Virginia.

"State" means the Commonwealth of Virginia.

"State agency" means a court, department, institution, office, board, council, or other unit of state government located in the legislative, judicial or executive departments or group of independent agencies, as shown in the appropriation act, and which is designated in the appropriation act by title and a three-digit agency code.

"State employee" means any person who is regularly employed on a salaried basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or any department, institution, or agency thereof. "State employee" shall include the Governor, Lieutenant Governor, Attorney General, and members of the General Assembly. It includes "judge" as defined in § 51.1-301 of the Code of Virginia and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth.

"State retiree" means an employee who worked for the Commonwealth of Virginia and is retired with the VRS or optional state retirement program service and is eligible for an immediate annuity.

"Teacher" means any employee of a county, city, or other local public school board.

"Terminated vested participant" means any former state or local employee who has five or more years of creditable service with any retirement plan administered by the Virginia Retirement System but due to age restrictions was not able to receive an immediate annuity. These individuals cannot currently be employed by or be retired from a local employer.

"Underwriting" means the process of identifying and classifying the potential degree of risk represented by a proposed insured.

1 VAC 55-30-20. Designee and delegations of authority.

Pursuant to §§ 2.2-1207 and 2.2-1208 of the Code of Virginia, the Department of Human Resource Management shall establish a program subject to the approval of the Governor, for providing long-term care benefits for employees and retirees of the Commonwealth of Virginia, employees and retirees of participating local employers, and for terminated vested participants of the Virginia Retirement System.

The Director of the Department of Human Resource Management hereby delegates to the Director of the Office of Health Benefits the authority to:

1. Propose, design, and administer a long-term care plan. Such plan will at a minimum consist of a plan:

- a. Covering employees and retirees of the Commonwealth, as well as vested terminated participants of the Virginia Retirement System, and
- b. Covering the employees and retirees of participating local employers.

All approved plans will, in the aggregate, constitute the long-term care program.
Any plan or plans proposed by the Office of Health Benefits shall be subject to the approval of the Director of the Department of Human Resource Management.

2. Propose regulations at any time for the purpose of the implementation, communication, funding, and administration of the long-term care program.

3. Enter into one or more contracts for the purpose of implementing, communicating, funding or administering the long-term care program. To this end, but not exclusively, such contract or contracts may be for the underwriting, funding, and administration, including claims processing and claims adjudication, of the program. Such contracts may be for accounting and actuarial services as well as communication, statistical analysis and any other item that may be needed to effectively review and maintain the long-term care program.

1 VAC 55-30-30. Procurement.

The department shall comply with the Virginia Public Procurement Act, Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia, as it may relate to any services to which such act shall apply.

In an effort to stabilize the administration and maintenance of the long-term care benefits program, the department may contract for services applicable to such program for a period of time not exceeding 10 years, with the department reserving the right, in its sole discretion, to cancel such contracts annually upon 90 days' written notice to the contractor.

1 VAC 55-30-40. Types of plans.

A. The administration and underwriting of the plans shall be at the discretion of the department and may include, but not be limited to self-funded arrangements, insured arrangements, or administrative services arrangements. The department is authorized to exercise judgment and discretion in the establishment, procurement and implementation of all underwriting and other services necessary for the establishment, maintenance, and administration of such plans and will be deemed to do so in good faith.

B. The department, as it deems necessary or prudent, may contract for outside services, including but not limited to actuarial, and consulting services. The

department may contract such services on an individual basis or in conjunction with other services.

1 VAC 55-30-50. No presumption of right.

These regulations and the long-term care benefits program herein established shall not be deemed to constitute a contract of employment or retirement between any participating employer and any participant. No participant in the program shall acquire any right to be retained in the employer's employ or attain any employment service toward retirement by virtue participation in the program, nor, upon the participant's dismissal or voluntary termination of employment, shall the participant have any interest in any assets of the program other than as may be specifically provided through the contract with the plan administrator.

Furthermore, these regulations and the long-term care program herein established shall in no event confer upon any participant any rights, duties or responsibilities other than those granted herein. The Commonwealth of Virginia specifically reserves the right to amend, modify or terminate, inclusive of eligibility, coverage and contributions provisions, the long-term care benefits program or any plan or plans comprising all or part of the program, as they may relate to any active or retired participant.

1 VAC 55-30-60. Confidentiality.

The department will not disclose identifiable individual health data without the consent of the individual being provided coverage. Data may be compiled into statistical reports provided that the identity of individual persons is not ascertainable by the reader or disclosed by the department.

1 VAC 55-30-70. Department discretion.

The department reserves the right to change the plans offered and benefits provided thereunder at its sole discretion based upon market and department considerations.

Part II

1 VAC 55-30-80. Eligible participants.

A. Active state employees.

1. State employees as defined in 1 VAC 55-30-10 who are salaried faculty or salaried classified employees or other similarly situated employees in the executive, legislative, judicial or independent agencies who are compensated on a salaried basis and work at least 20 hours, are eligible for membership in the long-term care program. A salaried employee is one who receives a paycheck no more often than biweekly and who is not paid on an hourly basis.

2. Classified positions include employees who are fully covered by the Virginia Personnel Act, employees excluded from the Virginia Personnel Act by subdivision 16 of § 2.2-2905 of the Code of Virginia, and employees on a restricted appointment. A restricted appointment is a classified appointment to a position that is funded at least 10% from gifts, grants, donations, or other sources that are not identifiable as continuing in nature. An employee on a restricted appointment must receive a state paycheck in order to be eligible.

3. Certain full-time employees in auxiliary enterprises (such as food services, bookstores, laundry services, etc.) at the University of Virginia, Virginia Military Institute and the College of William and Mary are also considered state employees even though they do not receive a salaried state paycheck. The Athletic Department of Virginia Polytechnic Institute and State University is a local auxiliary whose members are eligible for the program.

B. State retirees.

1. Employees who have met the terms and conditions for early, normal or late retirement from the Commonwealth under the Virginia Retirement System, State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system authorized pursuant to §§ 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, and

51.1-126.7 of the Code of Virginia are eligible for membership in the long-term care program.

2. Employees who retired under an optional state retirement program are eligible for an immediate annuity, and were at least age 50 with 10 years of service or at least age 55 with five years of service.

C. Active employees of participating local employers. Active full-time and part-time employees of participating local employers are eligible for membership. A part-time employee must regularly work at least 20 hours per week to maintain eligibility.

D. Retired employees of participating local employers.

1. The participating employer will determine if retirees are included as an eligible class.

2. If included, retirees are defined as employees who retired under the local employer's IRS Qualified Retirement Plan, were eligible to receive an immediate annuity, and were at least age 50 with 10 years of service or at least age 55 with five years of service as of their last day of employment.

E. Terminated vested participants.

1. Terminated employees of the Commonwealth or local employer who have five or more years of creditable service with the Virginia Retirement System, but due to age requirements were not eligible to receive an immediate annuity.

2. In order to be eligible to participate in this class an individual must not be eligible to participate as a member of another class under this chapter. This includes individuals who are employees or retirees of local employers who have not elected to participate in the program.

F. Other eligible participants. Other persons eligible to participate in the long-term care program include:

1. Spouse of an active employee,

2. Parents and parents-in law of the active employee,

3. Spouse or the surviving spouse of a retired employee, and

4. Spouse or the surviving spouse of a terminated vested participant.

1 VAC 55-30-90. Administration.

A. Enrollment of employees.

1. Enrollment will be on-going for all eligible participants.
2. Newly eligible active employees of the Commonwealth of Virginia can enroll into the program within 60 days of eligibility without proof of good health.
3. The enrollment period for new employer groups is as agreed upon by the program administrator and the participating employer.
4. Newly eligible active employees of the local employer can enroll into the program within a specific benefit eligibility window, as determined by the participating employer in conjunction with the program administrator, without proof of good health.
5. Special open enrollment periods for active employees will be determined by the plan administrator and agreed to by the department.
6. Eligible active employees who enroll without proof of good health must be actively at work on the effective date of coverage.

7. All other eligible participants are required to submit satisfactory evidence of good health, which must be reviewed and approved by the plan administrator before coverage can become effective.

8. Eligible individuals may be required to submit evidence that they are members of an eligible class before the plan administrator begins the enrollment process. Such evidence may include certification from the member's former employer, or the member's estimate of future annuity benefits provided by the Virginia Retirement System.

B. Premium payments.

1. Active employees with the employer's concurrence will be given the option of having the premiums for the long-term care program deducted from their salary. If both the employee and his spouse are enrolled, both premiums may be deducted from the employee's salary.

2. All other participants will be billed directed by the plan administrator or premiums may be made monthly by bank draft (EFT).